Assembly Bill No. 426

CHAPTER 156

An act to amend Sections 6353, 20543, and 20544 of, to add Sections 6051.45, 6201.45, 6356.5, 6356.6, and 6358.5 to, and to add and repeal Section 6357.1 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 7, 2001. Filed with Secretary of State August 7, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 426, Cardoza. Taxation.

The Sales and Use Tax Law provides for the levy of a state sales and use tax at a basic rate of 6% upon the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law imposes, as a component of that basic rate, a state sales and use tax at a rate of $^{1}/_{4}$ %, but suspends the imposition of that $^{1}/_{4}$ rate for any single calendar year for which the amount in the Special Fund for Economic Uncertainties exceeds a specified amount in both the prior and current fiscal year, as determined and certified by the Director of Finance.

This bill would suspend the $^{1}/_{4}$ % rate in any calendar year beginning January 1, 2002, in which the Director of Finance determines on or before the preceding November 1 that (1) the General Fund reserve is 3% of revenues excluding the revenues derived from the $^{1}/_{4}$ % sales and use tax rate, and (2) actual General Fund revenues for the period May 1 through September 30 equal or exceed the May Revision forecast prior to the November 1 determination.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax, including an exemption for gas, electricity, and water, including steam and geothermal steam, brines, and heat, when delivered to consumers, as specified.

This bill would additionally exempt liquefied petroleum gas, delivered to a qualified residence, as defined, by the seller, that is sold for household use in the qualified residence, and liquefied petroleum gas that is purchased for use by a qualified person to be used in producing and harvesting agricultural products.

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This bill would also exempt farm equipment and machinery, purchased for use by a qualified person, as defined, to be used primarily in producing and harvesting of agricultural products.

This bill would further exempt equipment and machinery designed primarily for off-road use in commercial timber harvesting operations, and the parts thereof, that is purchased for use by a qualified person, as defined, to be used primarily in harvesting timber.

This bill would also exempt diesel fuel used by a qualified person, as defined, in farming activities and food processing.

This bill would additionally exempt any racehorse breeding stock, as defined, from the sales and use taxes.

This bill would provide that certain of these exemptions do not apply to local sales or transactions and use tax rates and certain state rates imposed for the funding of locally provided services.

The Gonsalves-Deukmejian-Petris Senior Citizens Property Tax Assistance Law provides for payment of assistance by the Franchise Tax Board to claimants, whether those claimants own or rent their residences, in accordance with schedules that reduce the amount of assistance provided as the amount of a claimant's household income increases along a specified scale of household income amounts.

This bill would increase by 45% the household income figures that would be used to calculate these assistance payments for the 2001 calendar year and each calendar year thereafter.

Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are, unless otherwise specified by law, incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 6051.45 is added to the Revenue and Taxation Code, to read:

6051.45. Notwithstanding 6051.4 or any other provision of law, the state sales tax rate in Section 6051.3 shall not be operative in any

calendar year beginning on or after January 1, 2002, if the Director of Finance determines both of the following:

- (a) The General Fund reserve is 3 percent of revenues excluding the revenues derived from the 1/4 cent sales and use tax rate.
- (b) Actual General Fund revenues for the period May 1 through September 30 equal or exceed the May Revision forecast, prior to the November 1 determination.

The Director of Finance shall make the determination on or before November 1 of each year.

The $^{1}/_{4}$ cent reduction shall be operative for each calendar year commencing on the next January 1 after the determination is made.

- SEC. 2. Section 6201.45 is added to the Revenue and Taxation Code, to read:
- 6201.45. Notwithstanding 6201.4 or any other provision of law, the state use tax rate in Section 6201.3 shall not be operative in any calendar year beginning on or after January 1, 2002, if the Director of Finance determines both of the following:
- (a) The General Fund reserve is 3 percent of revenues excluding the revenues derived from the 1/4 cent sales and use tax rate.
- (b) Actual General Fund revenues for the period May 1 through September 30 equal or exceed the May Revision forecast, prior to the November 1 determination.

The Director of Finance shall make the determination on or before November 1 of each year.

- The $^{1}/_{4}$ cent reduction shall be operative for each calendar year commencing on the next January 1 after the determination is made.
- SEC. 3. Section 6353 of the Revenue and Taxation Code is amended to read:
- 6353. There are exempted from the taxes imposed by this part the gross receipts derived from the sales, furnishing, or service of and the storage, use, or other consumption in this state of, all of the following:
- (a) Gas, electricity, and water, including steam and geothermal steam, brines, and heat, when delivered to consumers through mains, lines, or pipes.
- (b) (1) Liquefied petroleum gas, delivered to a qualified residence by the seller, that is sold for household use in the qualified residence, or liquefied petroleum gas that is purchased for use by a qualified person to be used in producing and harvesting agricultural products; provided, in either case, the liquefied petroleum gas is delivered into a tank with a storage capacity for liquefied petroleum gas that is equal to or greater than 30 gallons. This subdivision may not be construed to provide any exemption from any tax levied by a city, county, or city and county pursuant to Section 7284.3, or any successor to that section.

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- (2) For purposes of this subdivision:
- (A) "Qualified residence" means a primary residence, not serviced by gas mains and pipes.
- (B) "Qualified person" means any person engaged in a line of business described in Codes 0111 to 0291, inclusive, of the Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 Edition, and any other person that assists that person in the lines of business described in this paragraph in producing and harvesting agricultural products.
- (c) Water, when sold to an individual in bulk quantities of 50 gallons or more, for general household use in his or her residence if the residence is located in an area not serviced by mains, lines or pipes.
- (d) Exhaust steam, waste steam, heat, or resultant energy, produced in connection with cogeneration technology, as defined in Section 25134 of the Public Resources Code.
- (e) The exemptions provided by subdivision (b) shall be effective starting September 1, 2001, unless the State Board of Equalization determines that implementation by that date is not feasible, in which case the board shall, on or before that date, report to the Legislature regarding the reasons why it must delay implementation, and shall thereafter implement these exemptions no later than October 1, 2001.
- SEC. 4. Section 6356.5 is added to the Revenue and Taxation Code, to read:
- 6356.5. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage and use of, or other consumption in this state of, farm equipment and machinery, and the parts thereof, purchased for use by a qualified person to be used primarily in producing and harvesting agricultural products.
 - (b) For purposes of this section, both of the following shall apply:
- (1) "Qualified person" means any person engaged in a line of business described in Codes 0111 to 0291, inclusive, of the Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 Edition, and any other person that uses farm equipment and machinery to assist this person in the lines of business described in this paragraph in producing and harvesting agricultural products.
- (2) "Farm equipment and machinery" means implements of husbandry, as defined in Section 411.
- (c) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this

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section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

- (2) Notwithstanding subdivision (a), the exemption established by this section does not apply with respect to any tax levied pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.
- (d) The exemption provided by this section shall be effective starting September 1, 2001, unless the State Board of Equalization determines that implementation by that date is not feasible, in which case the board shall, on or before that date, report to the Legislature regarding the reasons why it must delay implementation, and shall thereafter implement the exemption provided by this section no later than October 1, 2001.
- SEC. 5. Section 6356.6 is added to the Revenue and Taxation Code, to read:
- 6356.6. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage and use of, or other consumption in this state of, equipment and machinery designed primarily for off-road use in commercial timber harvesting operations, and the parts thereof, that is purchased for use by a qualified person to be used primarily in harvesting timber.
- (b) The State Board of Equalization may adopt emergency regulations to specify equipment and machinery exempted by this section, and may revise those regulations from time to time.
- (c) For purposes of this section, "qualified person" means any person engaged in commercial timber harvesting.
- (d) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.
- (2) Notwithstanding subdivision (a), the exemption established by this section does not apply with respect to any tax levied pursuant to Section 6051.2 and 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.
- (e) The exemption provided by this section shall be effective starting September 1, 2001, unless the State Board of Equalization determines that implementation by that date is not feasible, in which case the board shall, on or before that date, report to the Legislature regarding the reasons why it must delay implementation, and shall thereafter implement the exemption provided by this section no later than October 1, 2001.

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- SEC. 6. Section 6357.1 is added to the Revenue and Taxation Code, to read:
- 6357.1. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, diesel fuel used in farming activities and food processing. This section shall be implemented as soon as possible, but in no case later than September 1, 2001.
- (b) For purposes of this section, "farming activities" has the same meaning as "farming business" as set forth in Section 263A of the Internal Revenue Code. "Farming activities" also includes the transportation and delivery of farm products to the marketplace.
- (c) The exemption established by this section does not apply with respect to either of the following:
- (1) A tax imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)).
- (2) A tax imposed under Section 6051.2 or 6201.2, or under Section 35 of Article XIII of the California Constitution.
- SEC. 7. Section 6358.5 is added to the Revenue and Taxation Code, to read:
- 6358.5. (a) (1) There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, any racehorse breeding stock.
- (2) For purposes of this section "racehorse breeding stock" means a horse that is capable of reproduction and for which the purchaser states that it is the purchaser's sole intent to use the horse for breeding purposes.
- (b) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.
- (2) The exemption established by this section does not apply with respect to any tax levied pursuant to either Section 6051.2 or 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.
- (c) The exemption provided by this section shall be effective starting September 1, 2001, unless the State Board of Equalization determines that implementation by that date is not feasible, in which case the board shall, on or before that date, report to the Legislature regarding the reasons why it must delay implementation, and shall thereafter

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implement the exemption provided by this section no later than October 1, 2001.

- SEC. 8. Section 20543 of the Revenue and Taxation Code is amended to read:
- 20543. (a) (1) The amount of assistance for a claimant owning his or her residential dwelling shall be based on claimant's household income for the period set forth in Section 20503.
- (2) Except as provided in paragraph (3), the percentage of assistance for which each claimant owning his or her residential dwelling shall be eligible shall be based on the following scale:

	The percentage of tax on the first \$34,000 of full value (as de-
If the total household income (as defined	termined for tax purposes)
in this part) is not more than:	used to provide assistance is:
\$3,300	96%
3,520	94
3,740	92
3,960	90
4,180	88
4,400	86
4,620	84
4,840	82
5,060	80
5,280	78
5,500	76
5,720	73
5,940	69
6,160	65
6,380	61
6,600	57
6,820	53
7,040	49
7,260	45
7,480	41
7,700	37
7,920	34
8,140	31
8,360	28
8,580	25
8,800	22

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9,020		20
9,240		18
9,460		16
9,680		14
9,900		12
10,450		10
11,000		8
11,550		7
12,100		6
12,650		5
13 200		4

(3) For claims filed with respect to the 2000 calendar year, the percentage of assistance for which each claimant owning his or her residential dwelling shall be eligible shall be based on the following scale:

	The percentage of tax on the first \$34,000 of full value (as de-
If the total household income (as defined	termined for tax purposes)
in this part) is not more than:	used to provide assistance is:
\$8,498	240%
9,065	235
9,631	230
10,198	225
10,765	220
11,331	215
11,897	210
12,464	205
13,031	200
13,598	195
14,164	190
14,730	183
15,297	173
15,864	163
16,430	153
16,997	143
17,563	133
18,129	123
18,697	113
19,263	103

19,830	 93
20,396	 85
20,962	 78
21,530	 70
22,096	 63
22,662	 55
23,229	 50
23,795	 45
24,362	 40
24,929	 35
25,495	 30
26,912	 25
28,328	 20
29,745	 18
31,161	 15
32,578	 13
33,993	 10

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- (b) (1) With respect to assistance that is provided by the Franchise Tax Board pursuant to this chapter for the 1999 calendar year, the household income figures set forth in paragraph (2) of subdivision (a) shall be multiplied by a factor of 2.51.
- (2) With respect to assistance that is provided by the Franchise Tax Board pursuant to this chapter for the 2001 calendar year and each calendar year thereafter, the adjusted household income figures required to be applied under subdivision (c) shall be multiplied by a factor of 1.45.
- (c) With respect to assistance that is provided by the Franchise Tax Board pursuant to this chapter for the 2001 calendar year and each year thereafter, the household income figures that apply to assistance provided by the Franchise Tax Board during that period shall, subject to further adjustment as may be required by subdivision (b), be the household income figures that applied, or would have applied in the absence of paragraph (3) of subdivision (a), to assistance provided by the Franchise Tax Board in the same period in the immediately preceding year, multiplied by an inflation factor calculated as follows:
- (1) On or before February 1 of each year, the Department of Industrial Relations shall transmit to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the second preceding calendar year to June of the immediately preceding calendar year.

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- (2) The Franchise Tax Board shall add 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and divide the result by 100.
- (3) The Franchise Tax Board shall multiply the immediately preceding household income figure by the inflation adjustment factor determined in paragraph (2), and round off the resulting product to the nearest one dollar (\$1).
- SEC. 9. Section 20544 of the Revenue and Taxation Code is amended to read:
- 20544. (a) (1) The amount of assistance for a claimant renting his or her residence shall be based on the claimant's household income for the time period set forth in Section 20503.
- (2) Except as provided in paragraph (3), the percentage of assistance for which each claimant renting his or her residence shall be eligible shall be based on the following scale:

		The percentage of the
If the total household	The statutory	statutory property tax
income (as defined in this	property tax	equivalent used to
part) is not more than:	equivalent is:	provide assistance is:
\$3,300	\$250	96%
3,520	250	94
3,740	250	92
3,960	250	90
4,180	250	88
4,400	250	86
4,620	250	84
4,840	250	82
5,060	250	80
5,280	250	78
5,500	250	
5,720	250	73
5,940	250	69
6,160	250	65
6,380	250	61
6,600	250	57
6,820	250	53
7,040	250	49
7,260	250	
7,480	250	41
7,700	250	37

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7,920	 250		34	
8,140	 250		31	
8,360	 250		28	
8,580	 250		25	
8,800	 250		22	
9,020	 250		20	
9,240	 250		18	
9,460	 250		16	
9,680	 250		14	
9,900	 250		12	
10,450	 250		10	
11,000	 250		8	
11,550	 250		7	
12,100	 250		6	
12,600	 250		5	
13,200	 250		4	

(3) For claims filed with respect to the 2000 calendar year, the percentage of assistance for which each claimant renting his or her residence shall be eligible shall be based on the following scale:

		The percentage of the	
If the total household	The statutory	statutory property tax	
income (as defined in this	property tax	equivalent used to	
part) is not more than:	equivalent is:	provide assistance is:	
\$8,498	\$625	96	%
9,065	625	94	
9,631	625	92	
10,198	625	90	
10,765	625	88	
11,331	625	86	
11,897	625	84	
12,464	625	82	
13,031	625	80	
13,598	625	78	
14,164	625		
14,730	625	73	
15,297	625	69	
15,864	605	65	
16,430	625	61	

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16,997	625	57
17,563	625	53
18,219	625	49
18,697	625	45
19,263	625	41
19,830	625	37
20,396	625	34
20,962	625	31
21,530	625	28
22,096	625	25
22,662	625	22
23,229	625	20
23,795	625	18
24,362	625	16
24,929	625	14
25,495	625	12
26,912	625	10
28,328	625	8
29,745	625	7
31,161	625	6
32,578	625	5
33,993	625	4

- (b) (1) With respect to assistance that is provided by the Franchise Tax Board pursuant to this chapter for the 1999 calendar year, the household income figures set forth in paragraph (2) of subdivision (a) shall be multiplied by a factor of 2.51.
- (2) With respect to assistance that is provided by the Franchise Tax Board pursuant to this chapter for the 2001 calendar year and each calendar year thereafter, the adjusted household income figures required to be applied under subdivision (c) shall be multiplied by a factor of 1.45.
- (c) With respect to assistance that is provided by the Franchise Tax Board pursuant to this chapter for the 2001 calendar year and each year thereafter, the household income figures that apply to assistance provided by the Franchise Tax Board during that period shall, subject to further adjustments as may be required by subdivision (b), be the household income figures that applied, or would have applied in the absence of paragraph (3) of subdivision (a), to assistance provided by the Franchise Tax Board in the same period in the immediately preceding year, multiplied by an inflation factor calculated as follows:

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- (1) On or before February 1 of each year, the Department of Industrial Relations shall transmit to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the second preceding calendar year to June of the immediately preceding calendar year.
- (2) The Franchise Tax Board shall add 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and divide the result by 100.
- (3) The Franchise Tax Board shall multiply the immediately preceding household income figure by the inflation adjustment factor determined in paragraph (2), and round off the resulting product to the nearest one dollar (\$1).
- SEC. 10. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.
- SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of 2001, at the earliest possible time, it is necessary that this act go into immediate effect.